

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
) Court No.: 14-cr-10363-RGS-3-12
v.)
)
GENE SVIRSKIY, et al.)
)
Defendants.)
)
)

**GOVERNMENT'S MOTION TO EXCLUDE
TIME UNDER THE SPEEDY TRIAL ACT**

The United States of America hereby moves this Court to enter an order excluding time under the Speedy Trial Act for defendants Gene Svirskiy, Christopher M. Leary, Joseph M. Evanovsky, Scott M. Connolly, Sharon P. Carter, Alla V. Stepanets, Gregory A. Conigliaro, Kathy S. Chin, and Michelle L. Thomas (hereinafter, the “remaining defendants”) until October 4, 2018. As grounds for this request, the government states as follows.

On April 13, 2017, this Court entered an Order of Excludable Delay excluding all time under the Speedy Trial Act from April 10, 2017 “until [the] trial date,” which had not yet been scheduled, for the remaining defendants. (Doc. No. 1012). The Court granted the continuance in the interest of justice pursuant to 18 U.S.C. § 3161(h)(7)(A). At the time that the Court entered the Order of Excludable Delay, all time between the defendants’ initial appearances in this case and April 10, 2017 had previously been excluded under the Speedy Trial Act.¹

¹ The Court has previously ordered that the period from December 17, 2014 (the date of the defendants’ initial appearances in the case), through April 10, 2017, be excluded from the Speedy Trial Act computation in the interests of justice, pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and 3161(h)(7)(B)(ii). In addition, in an order dated February 5, 2016, Chief Magistrate Judge Boal found that “this case is sufficiently unusual and complex, given the number of defendants and the volume of discovery, ‘that it is unreasonable to expect adequate preparation for pretrial

Following the First Circuit's January 12, 2018 ruling in the interlocutory appeal in this case, the Court ultimately scheduled the trial of the remaining defendants to commence on October 4, 2018 (after the Court received multiple defense objections to its initial proposed trial date of March 20, 2018). Now that the trial of the remaining defendants has been scheduled, the government requests that the Court enter a new order on excludable delay excluding the time under the Speedy Trial Act from April 10, 2017 to October 4, 2018 in the interest of justice pursuant to 18 U.S.C. § 3161(h)(7)(A) and due to the complexity of the case pursuant to 18 U.S.C. § 3161(h)(7)(B)(ii).²

The reasons supporting the Court's previous exclusions under the Speedy Trial Act still persist. Therefore, the government submits that, in addition to time being properly excluded while the interlocutory appeal was pending, pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and 3161(h)(7)(B)(ii), the interests of justice in this complex case, *i.e.*, review of the case, review of evidence, investigation, evaluation of discovery, preparation for trial, and considerations of alternatives concerning how to best proceed with this matter, continue to outweigh the best interests of the public and the remaining defendants for a trial within 70 days of the return of the Indictment.

proceedings or for the trial itself within the time limits established' by the Speedy Trial Act." Order on Excludable Time (Doc. No. 533), at 1 (Feb. 5, 2016) (quoting 18 U.S.C. § 3161(h)(7)(B)(ii)).

² The government submits that the time during which the interlocutory appeal was pending is also properly excludable under 18 U.S.C. § 3161(h)(1)(C).

CONCLUSION

For the above reasons, the United States respectfully requests that this Court enter an order excluding all time under the Speedy Trial Act as to all of the remaining defendants until October 4, 2018.

Respectfully submitted,

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Dated: February 9, 2018

Certificate of Service

I hereby certify that the foregoing document filed through the ECF system will be sent electronically to counsel for the defendants, who are registered participants as identified on the Notice of Electronic Filing (NEF).

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Dated: February 9, 2018